

**To:** Shengmao Mu([smu@whitewoodlaw.com](mailto:smu@whitewoodlaw.com))  
**Subject:** U.S. Trademark Application Serial No. 97772156 - ICEFACEROLLER  
**Sent:** November 08, 2023 02:17:28 PM EST  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

**United States Patent and Trademark Office (USPTO)**  
**Office Action (Official Letter) About Applicant's Trademark Application**

**U.S. Application Serial No.** 97772156

**Mark:** ICEFACEROLLER

**Correspondence Address:**  
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NEW YORK NY 10019  
United States

**Applicant:** You Got Investment Development Co.,Ltd.

**Reference/Docket No.** N/A

**Correspondence Email Address:** [smu@whitewoodlaw.com](mailto:smu@whitewoodlaw.com)

**NONFINAL OFFICE ACTION**

**Response deadline.** File a response to this nonfinal Office action within three months of the “Issue date” below to avoid [abandonment](#) of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the “How to respond” section below.

**Request an extension.** For a fee, applicant may [request one three-month extension](#) of the response deadline prior to filing a response. The request must be filed within three months of the “Issue date” below. If the extension request is granted, the USPTO must receive applicant’s response to this letter within six months of the “Issue date” to avoid abandonment of the application.

**Issue date:** November 8, 2023

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issues below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

**NO CONFLICTING MARKS**

The trademark examining attorney has searched the USPTO database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). 15 U.S.C. §1052(d); TMEP §704.02.

## CHANGE OF OWNER ENTITY INFORMATION

**Applicant's request to amend the owner name, entity type and location of organization in the application is denied.** Applicant has not recorded with the USPTO's Assignment Recordation Branch any ownership or name change showing clear chain of title from applicant to the new owner, which is required to make this change. *See* 37 C.F.R. §3.73(b); TMEP §§502-502.01.

**To amend the owner name in the application,** the new owner must timely do all of the following prior to approval of the mark for publication or registration:

(1) **Record** (or submit for recordation) the assignment(s), name change, or other transaction affecting title with the USPTO's Assignment Recordation Branch that show clear chain of title from applicant to the new owner using the [Electronic Trademark Assignment System \(ETAS\)](#). There is a [fee](#) for recording ownership changes.

(2) **Request** the trademark examining attorney suspend the application until the new owner information is recorded with the Assignment Recordation Branch and the USPTO's Trademark database is updated with the new owner information. A notice of recordation will issue when the Assignment Recordation Branch has recorded the ownership or name change. Check the Trademark Assignment [Search database](#) on the USPTO website and the [Trademark Status and Document Retrieval \(TSDR\)](#) system to confirm the change of ownership or name has been made.

(3) **Request**, after the ownership or name change has been recorded with the Assignment Recordation Branch and the Trademark database updated, that the suspension be lifted. If the owner or name change information has been recorded with the Assignment Recordation Branch but has not been updated in the Trademark database, the request to lift the suspension should identify the new owner or new name in the proper owner data field within the owner information section in the TEAS Response to Suspension Inquiry or Letter of Suspension form. This will effectively update the Trademark database.

*See* 15 U.S.C. §1060; 37 C.F.R. §§2.6(b)(6), 3.41(a), 3.85; TMEP §§502.02(a), 503.03(d), 505.01.

If (1) through (3) cannot be completed before the trademark examining attorney approves the mark for publication or registration, the registration will issue in the name of the current owner and the new owner may request a change to the owner information after the registration issues by filing a request for a correction and new registration certificate. *See* TMEP §502.02(a).

**If the application was filed by the owner and there is an inadvertent error in the applicant's name, such as a minor typographical error or misspelling, or the name identifies a party that did not exist as of the application filing date, the application may be amended to correct the applicant's name.** TMEP §1201.02(c). In either case, applicant should include in the amendment request the reason for the correction (such as "ABC Corporation did not exist as of the filing date of the application," or "Company" was inadvertently omitted from the applicant's name in the application).

*Id.*

## **SPECIMEN UNACCEPTABLE**

Registration is refused because the specimen appears to consist of a digitally created or altered image or a mockup of a depiction of the mark on the packaging for the goods and does not show the applied-for mark as actually used in commerce. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a), (c); TMEP §§904.04(a)(iii), 904.07(a).

An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark as actually used in commerce for each international class of goods identified in the application. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a). “Use in commerce” means (1) a bona fide use of the applied-for mark in the ordinary course of trade (and not merely to reserve a right in the mark), (2) the mark is placed in any manner on the goods, packaging, tags or labels affixed to the goods, or displays that directly associate the mark with the goods and have a point-of-sale nature, and (3) the goods are actually sold or transported in commerce. *See* 15 U.S.C. §1127.

An image of a product or packaging that has been digitally created or altered to include the mark or a mockup of how the mark may be displayed on the product or packaging is not a proper specimen for goods because it does not show actual use of the mark in commerce. *See* 15 U.S.C. §1127; 37 C.F.R. §2.56(c); TMEP §904.04(a)(i).

In this case, the specimen appears to be a mockup of packaging for the goods created solely for use as a trademark specimen rather than a photograph of actual packaging for the goods that is used in commerce. Therefore, the specimen does not show actual use of the mark in commerce.

**Response options.** Applicant may respond to the specimen refusal by satisfying **one** of the following options for each applicable international class:

(1) **Submit a different specimen** (a verified “[substitute](#)” [specimen](#)) that (a) was in actual use in commerce at least as early as the filing date of the application and (b) shows the mark in actual use in commerce for the goods identified in the application. A “verified substitute specimen” is a specimen that is accompanied by the following statement made in a signed affidavit or supported by a declaration under 37 C.F.R. §2.20: “The substitute specimen(s) was/were in use in commerce at least as early as the filing date of the application.” The substitute specimen cannot be accepted without this statement. For instructions on how to submit a different specimen using the online Trademark Electronic Application System (TEAS) form, see the [Specimen webpage](#).

Applicants submitting a webpage as a specimen for goods must include the URL and the date the page was accessed or printed either directly on the specimen itself or in a separate statement, supported by an affidavit or declaration under 37 C.F.R. §2.20 verifying such information. *See* 37 C.F.R. §2.56(c); TMEP §§904.03(i), 1301.04(a).

(2) **Amend the filing basis** to [intent to use under Section 1\(b\)](#) as no specimen is required before publication. This option will later necessitate additional fees and filing requirements, including a specimen.

If applicant submits an acceptable verified substitute specimen or amends to Section 1(b), the

requirement below for additional information/documentation about the original specimen will be withdrawn. The requirement below as to the original specimen will be made final if applicant submits a substitute specimen that is not acceptable or does not amend to Section 1(b), and does not also respond completely to the requirement below.

## **ADDITIONAL INFORMATION/DOCUMENTATION ABOUT ORIGINAL SPECIMEN REQUIRED**

To permit proper examination of the application record for compliance with use in commerce requirements, applicant must respond to the following requirement for information and documentation about the specimen(s). *See* 37 C.F.R. §2.61(b); TMEP §§814, 904.04(a)(iii). A specimen must show the mark as actually used in commerce, which means use in the ordinary course of trade, and not merely to reserve a right in the trademark. 15 U.S.C. §§1051, 1052, 1127. Because the specimen of record appears to be digitally created or altered, or is a mockup, further information is necessary to determine whether the specimen is in actual use in commerce.

**Answer for each specimen/photograph/image previously provided.** For any website source, applicant must provide (1) an image of the webpage, (2) the date it was accessed or printed, and (3) the complete URL address. *In re ADCO Indus.-Techs., L.P.*, 2020 USPQ2d 53786, at \*2 (TTAB 2020) (citing *In re I-Coat Co.*, 126 USPQ2d 1730, 1733 (TTAB 2018)); TMEP §710.01(b). Providing only a website address or hyperlink to the webpage is not sufficient to make the materials of record. *In re ADCO Indus.-Techs., L.P.*, 2020 USPQ2d 53786, at \*2 (citing *In re Olin Corp.*, 124 USPQ2d 1327, 1331 n.15 (TTAB 2017); *In re HSB Solomon Assocs., LLC*, 102 USPQ2d 1269, 1274 (TTAB 2012); TBMP §1208.03); TMEP §814.

- (1) Explain whether the specimen was created for submission with this application. If so, specify the date each specimen was created.
- (2) Provide information about and examples of how applicant's goods appear in the actual sales environment.
  - (a) If sold in stores, provide a representative sample of the name(s) of the stores and of photographs showing the goods for sale in the named stores, such as photographs of the sales displays or goods on shelves with the mark.
  - (b) If sold online, provide a representative sample of the name(s) of the online retailers, the website URL(s) for each named retailer, and a digital copy of the webpages showing the goods for sale on the named website.
  - (c) If sold in another type of sales environment (e.g., catalogs, trade shows), identify the environment and provide photographs and/or documentation showing the goods for sale in that environment.

Applicant has a duty to respond directly and completely to this requirement for information. *See In re Ocean Tech., Inc.*, 2019 USPQ2d 450686, at \*2 (TTAB 2019) (citing *In re AOP LLC*, 107 USPQ2d 1644, 1651 (TTAB 2013)); TMEP §814. Failure to comply with a requirement for information is an independent ground for refusing registration. *In re SICPA Holding SA*, 2021 USPQ2d 613, at \*6 (TTAB 2021) (citing *In re Cheezwhse.com, Inc.*, 85 USPQ2d 1917, 1919 (TTAB 2008); *In re DTI P'ship LLP*, 67 USPQ2d 1699, 1701-02 (TTAB 2003); TMEP §814).

## **QUESTIONS**

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusals or requirements in this Office action. *See* TMEP §§705.02, 709.06. The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

**How to respond.** File a [response form to this nonfinal Office action](#) or file a [request form for an extension of time to file a response](#).

/John Gartner/  
Examining Attorney

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## RESPONSE GUIDANCE

- **Missing the deadline for responding to this letter will cause the application to [abandon](#).** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) [system availability](#) could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email [TEAS@uspto.gov](mailto:TEAS@uspto.gov).
- **[Responses signed by an unauthorized party](#)** are not accepted and can **cause the application to [abandon](#)**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.

## United States Patent and Trademark Office (USPTO)

### USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued  
on November 8, 2023 for  
**U.S. Trademark Application Serial No. 97772156**

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

- (1) **[Read the Office action](#)**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be [abandoned](#). See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

### GENERAL GUIDANCE

- **[Check the status](#) of your application periodically** in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- **[Update your correspondence email address](#)** to ensure you receive important USPTO notices about your application.
- **[Beware of trademark-related scams](#)**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, [TSDR](#), to confirm that it appears under the “Documents” tab, or contact the [Trademark Assistance Center](#).
- **[Hiring a U.S.-licensed attorney](#)**. If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.